

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119,
Port Charlotte, Florida
Minutes of Regular Meeting
June 11, 2012, 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:31 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Michael Gravesen
[District I seat is vacant]
John Mahshie
Brenda Bossman

ABSENT

ATTENDING

Derek Rooney, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of April 9, 2012 were approved as circulated.

ANNOUNCEMENTS

Chair Hess introduced the new Board member representing District IV, Mr. John Mahshie, replacing Mr. James Marshall.

PETITIONS

SV-12-04-03

Legislative

Commission District IV

Heritage of Sarasota, Inc., and Harbour Village Property Owners Association, Inc. have applied to vacate the portion of River Beach Drive (platted Riverside Drive) that runs east of Sturkie Avenue and west of the Hayward Canal, as recorded in Plat Book 1, Page 62, and Plat Book 2, Page 30, also to vacate the conditions of the Developer's Agreement (AGR 2006-074) that was required for the approval of a previous street vacation (Res. 2006-223), and the portion of Warren Avenue that runs south of Schofield Road, and north of River Beach Drive, as recorded in Plat Book 2, Page 30, as well as the drainage easement in the Warren Avenue right-of-way, a total of 3.88 acres, more or less, located in Section 28, Township 40 South, Range 21 East, in Commission District IV.

Staff Presentation

Steven Ellis, Planner II, presented the findings and analysis of the petition with a recommendation of *Denial*, based on the reasons stated in the staff report dated May 22, 2012. Given the complexity of the request, **Mr. Ellis** noted that he had broken the presentation into three units, in order that it may be better understood. He first addressed that unit that referred to an area that had been previously vacated and for which the Developer's Agreement was executed, the conditions of which the applicant is now also requesting be vacated. He noted that only some requirements of the Agreement had been met since it was accepted in 2006: Only the deeding of the property to Charlotte County, and the easements to the local utilities had been accomplished.

Mr. Ellis explained that today's vacation request does not come with any offsetting benefit to the citizens of Charlotte County; he also explained the way the original Developer's Agreement had affected the way TDUs were handled in that vacation, which would also be affected if the Agreement was vacated.

The application includes the request that the drainage easement be vacated as well; as a practical matter, this refers to the swale and the County's drainage structures which are already in place.

Mr. Ellis next spoke about the right-of-way area at the shoreline which varies in width from about 70 to about 3 feet; he noted that applicants had already (illegally) created a gated barrier in the right-of-way to keep people off the condo property. He also remarked on a fishing pier which the condo residents had been permitted to build; the easement for maintenance on that structure did not give the residents the right to build any other structures in this area, so the barricade is a clear violation.

Mr. Ellis next referred to the Comprehensive Plan which disallows a vacation request which interferes with access by county residents to the shoreline in the County. He reviewed the objections from various other county departments and staff which led to their recommendations of denial.

Finally, **Mr. Ellis** provided a detailed summation of the numerous reasons why staff recommends denial in this case.

Questions for Staff

Ms. Bossman asked why this application would even be considered when the applicants had failed to meet their prior responsibilities. She wondered if there was any way that future applications from the same entity could simply be rejected in advance; **Mr. Rooney** answered that there was no mechanism for that.

Applicant's Presentation:

Geri L. Waksler, Esq., agent for the applicants, spoke in support of a modified version of the petition; she handed out paperwork describing the suggested modifications, noting that she had taken up the case for the original representative who is no longer available. She felt the modification would be agreeable since they represented a substantial reduction in what was being sought. She challenged the idea that the applicants have failed to meet the standards of the prior Developers Agreement, noting that some requirements had only to be completed before a CO could be issued; there has been no CO sought to date.

She then reviewed the units as laid out by Mr. Ellis and addressed the points raised: Applicants Harbour Village POA have withdrawn their part of the application, leaving only Heritage of Sarasota as the sole applicant; applicant is now seeking **not** to vacate any part of Warren Rd., and to vacate only that part of River Beach highlighted in yellow on the handout page, noting that no part of the indicated property provides any access to the water, except the orange part which is county property.

Ms. Waksler noted that she had made a site visit and found that the area is utilized, though perhaps not in a way that the County would want to encourage; she noted that applicants have been instrumental in removing one vagrant camp from the property in the past, but she saw evidence of a camp fire and trash during her visit.

Regarding the proposed kayak launch intended to be placed on the property previously deeded to the County, **Ms. Waksler** also noted that as part of the new request, applicant would seek to swap

that small parcel for a much larger parcel at the end of Warren Avenue (indicated in green on the handout). Instead of creating a walkway, applicant agrees to remove the exotics and create a parking area for the public. She mentioned that G2 ProVentures, developer of an RV resort on the north side of 776 had agreed to build a kayak launch on their side of the 776 bridge, and that is moving forward as planned. She noted there is a much larger parking area already reserved for the G2 project. The idea was that this other kayak launch eliminates the need for a duplicate launch on this side of the bridge. Finally, **Ms. Waksler** said applicant would also voluntarily give up any density which would normally attach to the vacation. She noted that she had met with staff to go over these adjustments to the original application.

Chair Hess took the opportunity to note that this is, in essence, a completely new application, and she stated that it should be submitted as such, in order to be reviewed in the proper manner, to get staff comments on the proposals actually now being made; **Ms. Bossman** indicated that she agreed with this suggestion. **Chair Hess** stated that she was not at ease with making a decision based merely on the verbal presentation. **The Chair** asked Mr. Rooney what was needed to require a reapplication; **Mr. Rooney** deferred to staff to see if staff wants to go forward or not. **Ms. Waksler** indicated that she wants to go forward; Chair Hess polled the Board, and all agreed that the matter should be resubmitted and represented. **Chair Hess** asked Mr. Mahshie to make a motion to continue to a future meeting. **Ms. Waksler** asked for a moment to confer with her client, since she would not be able to be present for the July meeting.

Discussion ensued between the Board and the Attorney as to the form of the motion to be made in this situation. **Ms. Waksler** returned to the podium to say that while the applicant would prefer to go forward at this meeting, she would defer to the Board's wishes, asking that it be set for a date and time certain.

Recommendation

Mr. Mahshie moved continuation of application **SV-12-02-01** to the next scheduled meeting of the Board, second by **Mr. Gravesen** and carried by a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 2:00 p.m.